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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

PHILLIP NGHIEM, individually and on  
behalf of a class of similarly situated  
individuals,

Plaintiff,

v.

DICK'S SPORTING GOODS, INC.,  
and DOES 1-10, inclusive,

Defendant.

Case No. 8:16-cv-00097-CJC-DFM

**DECLARATION OF  
ELIZABETH BARAN IN  
SUPPORT OF DEFENDANT  
DICK'S SPORTING GOODS,  
INC.'S MOTION TO  
COMPEL ARBITRATION  
AND STAY LITIGATION OR,  
IN THE ALTERNATIVE, FOR  
DISCOVERY ON THE ISSUE  
OF ARBITRABILITY**

Hearing Date: May 16, 2016  
Hearing Time: 1:30 p.m.  
Location: Courtroom 9B  
Hon. Cormac J. Carney

1 I, Elizabeth Baran, testify as follows:

2 1. I am over the age of eighteen (18) years, and competent to testify to the  
3 matters set forth in this declaration. I make this declaration from personal  
4 knowledge of these matters.

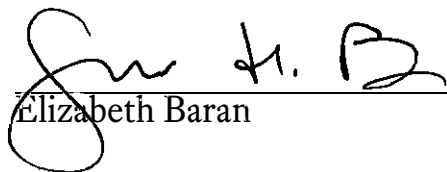
5 2. I understand that Plaintiff Phillip Nghiem is an attorney at the Manning  
6 Law Office. In the eight months between March 10, 2015 and November 4, 2015,  
7 Nghiem's law firm sent DSG no less than five demand letters on behalf of four  
8 different clients. The letters are fairly similar: they all complain that the Text Alerts  
9 program violates the TCPA, and demand payment. Copies of these letters are  
10 attached as **Exhibits 1 through 5**.

11 3. Nghiem's law firm wrote the first demand letter to DSG on behalf of their  
12 client Jacob Meier. According to that March 10, 2015 letter, Mr. Meier began  
13 receiving text messages from the Text Alerts program on February 5, 2015.

14 4. Less than two weeks after Mr. Meier purportedly received his first text  
15 from the Text Alerts program, Nghiem himself enrolled in the Text Alerts  
16 program.

17  
18 I declare under penalty of perjury that the foregoing is true and correct.

19  
20 Executed this 22nd day of April 2016 in Coraopolis, Pennsylvania.

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23 Elizabeth Baran  
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